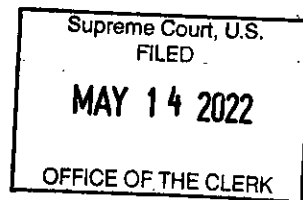


ORIGINAL

21 No. 7894

IN THE
Supreme Court of the United States



DANA ALBRECHT,

Petitioner,

v.

KATHERINE ALBRECHT,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of New Hampshire

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Petitioner alleges that New Hampshire does not provide equal protection under the law to its citizens when deciding whether to issue domestic violence orders of protection.

Petitioner asserts he has never committed a violent act, nor threatened to do so. However, Petitioner is presently subject to a protective order, first issued from 12/30/2019 through 12/29/2020, because he did not have scheduled parenting time when he attempted, peacefully, to attend a public church service in Massachusetts where Respondent and their children were present. A “one-year extension” [sic] from 12/30/2020 through 2/25/2023 (2 years, 1 month, 26 days) was subsequently granted when, on appeal, the New Hampshire Supreme Court disqualified the trial court judicial officer, yet “express[ed] no opinion as to the merits of the underlying motion to extend the protective order,” that Petitioner requested it review.

In a different recent New Hampshire domestic violence case, the trial court did not issue any protective order, despite graphic descriptions of physical and sexual abuse at trial by the plaintiff, who was subsequently shot by the defendant, prompting extensive news coverage. A subsequent internal review by the New Hampshire Judicial Branch concluded that the trial court applied the New Hampshire statutory law, as interpreted by New Hampshire Supreme Court precedent, in good faith and that the decision was not unreasonable.

The first question presented is: Whether the Due Process or Equal Protection Clause require objective standards for the issuance or extension of a domestic violence order of protection; and, if so, what are those objective standards?

The protective order against Petitioner prohibits him from traveling within 2,000 feet of the Massachusetts church at all times, despite that Respondent is a resident of Michigan, and was a resident of California when she first filed the action. However, the order nevertheless does allow Petitioner to travel within 1,000 feet of Respondent's home, or Respondent herself.

Petitioner requested that the order be amended, to permit Petitioner to leaflet on public property near the Massachusetts church, when Respondent was in a different state, which request the trial court denied. The New Hampshire Supreme Court subsequently upheld the trial court's determination that "there is no less restrictive means available by which to protect [Respondent] from [Petitioner] ... when she visits the east coast and wants to exercise her constitutional free exercise and associational rights."

The second question presented is: Does this violate Petitioner's First or Fourteenth Amendment rights?

LIST OF ALL PROCEEDINGS

Katherine Albrecht v. Dana Albrecht
Supreme Court of New Hampshire
Case No. 2021-0192
Decision Date: December 16, 2021 (App. 4)

Katherine Albrecht v. Dana Albrecht
Supreme Court of New Hampshire
Case No. 2020-0118
Decision Date: June 19, 2020 (App. 13)

Katherine Albrecht v. Dana Albrecht
Ninth Circuit Family Division,
Nashua, New Hampshire
Case No. 659-2016-DV-00120
Decision Date: December 21, 2020 (App. 4)
Decision Date: January 27, 2020 (App. 17)

Dana Albrecht v. Katherine Albrecht
Supreme Court of the United States
Case No. 19-8108
Decision Date: October 7, 2019
Notice of Decision: Certiorari Denied.

Dana Albrecht v. Katherine Albrecht
Supreme Court of New Hampshire
Case No. 2019-0436
Decision Date: September 16, 2019

Dana Albrecht v. Katherine Albrecht

Ninth Circuit Family Division,

Nashua, New Hampshire

Case No. 659-2016-DM-00288

Date of Order on Motions: May 30, 2019

Date of Order on Post-Decision Relief: June 30, 2019

State v. Julie Introcaso

Hillsborough County Superior Court, South

Nashua, New Hampshire

Case No. 226-2021-CR-0126

Decision Date: November 15, 2021.

Task Force on Domestic Violence Cases in the New Hampshire Judicial Branch,

chaired by New Hampshire Supreme Court Justice Barbara Hanz-Marconi (Report

Date: March 1, 2022) – App. 84

New Hampshire Judicial Branch Report of the Internal Review Committee in the

Case of L.S. v. R.L. (November 23, 2021) – App. 20.

Lindsay Smith v. Richard Lorman

Tenth Circuit Family Division

Hampton, New Hampshire

Case No. 641-2021-DV-00070

Decision Date: October 20, 2021.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Dana Albrecht respectfully petitions this Court for a *writ of certiorari* to review judgments of the Supreme Court of New Hampshire in this case, also comparing it to a related case in which Petitioner alleges New Hampshire's actions are directly contrary to this case, thereby giving rise to alleged violations of the Due Process Clause and Equal Protection Clause.

OPINIONS AND ORDERS BELOW

The Supreme Court of New Hampshire's opinion in this case (Case No. 2020-0192) was published to the public, and by the press, in the *New Hampshire Union Leader*, and received both state and national news coverage, but is otherwise "unpublished" by traditional legal methods.

The Committee Report from the internal review by the New Hampshire Judicial Branch, in *Lindsay Smith v. Richard Lorman*, No. 641-2021-DV-00070, was published by the New Hampshire Judicial Branch, as were the meeting minutes and subsequent report of the New Hampshire Domestic Violence Task Force created by the New Hampshire Supreme Court as a result. Transcripts of all ten Task Force meetings, chaired by New Hampshire Supreme Court Justice Barbara Hanz-Marconi, have been prepared.

JURISDICTION

The Supreme Court of New Hampshire entered its judgment on December 16, 2020. This Court has jurisdiction pursuant both to 28 U.S.C. § 1257(a) and 28 U.S.C. § 1251. On March 8, 2022, Justice Breyer granted Petitioner's application (No. 21A480) to extend the time to file a petition for a writ of certiorari to May 15, 2022.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Section One of the Fourteenth Amendment to the United States Constitution provides that “[N]or shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. ”

The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

NH Rev Stat § 173-B (2014) (“Protections of Persons from Domestic Violence”). See App. at 145.

NH Rev Stat § 633-3:a (2015) (“Stalking”). See App. at 149.

INTRODUCTION

This case arises out of what Petitioner alleges are wildly disparate actions by the State of New Hampshire, concerning whether, and under what circumstances, New Hampshire issues, or extends, Domestic Violence Orders of Protection.

Petitioner asserts that he is a peaceful person, innocent of any wrongdoing, and has never committed (nor threatened to commit) a violent act.

However, Respondent nevertheless has obtained a Domestic Violence protective order against Petitioner, as a result of Petitioner’s attempt to peacefully attend a public church service at a church located in Dracut, Massachusetts, where

Respondent and her children also attended, even though Petitioner did not have any contact whatsoever with Respondent on that day.

Petitioner further asserts that he has never even been informed, with any specificity, exactly what actions he took that violated the relevant New Hampshire Domestic Violence Statute, and why, insofar as the New Hampshire Supreme Court also affirmed in this case that “Plaintiffs¹ in their domestic violence petitions are not required to identify by name and citation which crimes [*emphasis added*] in RSA 173-B:1 the defendant has committed. The defendant and the court discern it from the facts that the plaintiff pleads, and that is what happened here.”²

Nevertheless, New Hampshire issued an “order of protection” against Petitioner, that now prohibits Petitioner from going within 2,000 feet of the Massachusetts church, even though Respondent is a presently a resident of Michigan, and formerly a resident of California. By way of contrast, the order permits Petitioner to travel within 1,000 feet of Respondent’s home, and also within 1,000 feet of Respondent’s person. (App. 17)

Petitioner also requested that the trial court amend the order to allow Petitioner to leaflet on public property near the the Massachusetts church while Respondent was in different state, but the court declined to do so, finding that “there is no less restrictive means available by which to protect [Respondent] from [Petitioner] ... when she visits the east coast and wants to exercise her constitutional free exercise and associational rights,” and that was subsequently also affirmed by the New Hampshire Supreme Court.³

1 In the cases below, Petitioner Dana Albrecht was the Defendant, and Respondent Katherine Albrecht was the Plaintiff.

2 January 20, 2020 trial court order, affirmed by New Hampshire Supreme Court, on appeal, no. 2020-0118. See App. 13-18.

3 *Id.*

Respondent subsequently requested that the protective order be extended, which was granted *ex parte* by the trial court, and before Petitioner could respond, based on unspecified "evidence and testimony presented to [the trial court] in this domestic violence matter and in the divorce matter." (App. 9-12)

On subsequent appeal, the New Hampshire Supreme Court determined that one of the trial court judicial officers was disqualified based on comments⁴ that officer made at trial, yet "express[ed] no opinion as to the merits of the underlying motion to extend the protective order," (App. 7) that Petitioner requested it review, despite that Petitioner raised numerous state and federal constitutional concerns in fully developed argument before the New Hampshire Supreme Court.

By way of contrast, in a different domestic violence case, the New Hampshire trial court did not issue any protective order, despite graphic descriptions of physical and sexual abuse at trial by the plaintiff in that case, who was subsequently shot by the defendant in that case, resulting in extensive news coverage. A subsequent internal review by the New Hampshire Judicial Branch (App. 20-59) concluded that the trial court applied the New Hampshire statutory law, as interpreted by New Hampshire Supreme Court precedent, in good faith and that the decision was not unreasonable. (App. 38)

New Hampshire's actions present serious due process and equal protection concerns, as well as serious First Amendment concerns.

The issues are squarely presented in this case, insofar as New Hampshire has issued, and extended, protective orders resulting from peaceful church attendance, and without adequate explanation, but also denied protective orders where testimony of graphic violence and sexual abuse was heard at trial, and where the

⁴ Concerning Petitioner's testimony at trial, New Hampshire Marital Master Bruce F. DalPra stated, "who gives a f**k" and also called the parties' children "a bunch of morons."

defendant subsequently attempted to murder the plaintiff, before dying himself, by suicide.

Consequently, this Honorable Court should review the lower courts' decisions. It should take up the issue of whether under the United States Constitution, due process, and equal protection, require that there be objective standards for issuing or extending domestic violence orders of protection.

STATEMENT OF CASE

A. Background

Petitioner Dana Albrecht and Respondent Katherine Albrecht (the "parties") were married on November 4, 1996. They have four children, P.A. (now age 24), C.A. (now age 21), S.A. (now age 18), and G.A. (now age 15).

This case began on April 8, 2016, when Respondent obtained her first temporary Domestic Violence Order of Protection, later dismissed, from former New Hampshire trial court judge Paul S. Moore, who was subsequently criminally convicted of a class B felony, and eventually disbarred. (App. 186-188)

The parties' related divorce case is also one of at least nine New Hampshire family law cases in which former New Hampshire trial court judge Julie Introcaso appointed her close friend Kathleen Sternenberg, as *Guardian ad Litem* (GAL), for the minor children, which was a conflict of interest. During the subsequent investigation by the New Hampshire Judicial Conduct Committee, former judge Introcaso then tampered with court records and falsified physical evidence, hoping to "cover up" her actions, that eventually led to Ms. Introcaso being charged with two class B felonies.

As part of an Alford plea agreement with the State,⁵ Ms. Introcaso then received a suspended sentence, was sentenced to 100 hours of community service, and was also eventually disbarred, leading to both state and national news coverage. (App. 181-185)

In the parties' related divorce case, and prior to being criminally charged, former judge Julie Introcaso approved over \$10,000 in fee increases, for her close friend, Ms. Sternenberg, to investigate relocation of the parties' minor children to California in this case, subsequently giving rise to a multi-state diversity-of-citizenship family law case under the UCCJEA, when Respondent then moved to California, and subsequently Michigan.

A third judicial officer, Marital Master Bruce F. DalPra, was also disqualified as a result of his actions in this case, also leading to both state and national news coverage. Master DalPra then subsequently immediately retired.

B. Lower Court Record

On April 8, 2016, Ms. Albrecht initiated these legal proceedings by filing a domestic violence petition in the family court, and Judge Paul S. Moore⁶ issued temporary orders, later dismissed, denying Mr. Albrecht all contact, including by telephone, with his minor children.

On April 15, 2016, Mr. Albrecht entered a petition for legal separation in the family court, and also sought *ex parte* relief to regain contact with his children. At that time, the family court then allowed that Mr. Albrecht would be able to see their minor children, but only on the premises of Collinsville Bible Church (hereto

5 At the time Ms. Introcaso was charged, current New Hampshire Supreme Court Chief Justice Gordon MacDonald served as then New Hampshire Attorney General Gordon MacDonald.

6 Judge Moore pleaded guilty in May 2018 to one count of felony fraud and has since been disbarred. See NH Supreme Court Case No. JC-17-042-C.

“CBC”), located in Dracut, Massachusetts, and only while supervised by the church leadership (Pastor Eric Smith or Elder Robert Cooper).

On October 4, 2016, the family court dismissed Ms. Albrecht’s first domestic violence petition, thereby vacating the prior order that Mr. Albrecht’s parenting time be supervised by CBC church leadership, and entered a Temporary Parenting Plan.

On October 13, 2016, Marital Master Bruce F. DalPra recommended, and former judge Julie Introcaso approved, the appointment of Ms. Introcaso’s friend, *Guardian ad Litem* Kathleen Sternenberg, in this case, despite the conflict of interest. Marital Master Bruce DalPra was also aware of the conflict since 2014. See *Deposition of the Honorable Julie A. Introcaso*, taken February 8, 2021, at page 61, line 21 (“Bruce has known that for seven years.”).

Upon Kathleen Sternenberg’s recommendation, for which she earned over \$10,000 in fees approved by former judge Introcaso, and with the family court’s permission, on September 1, 2017, Ms. Albrecht relocated with the parties’ minor children from New Hampshire to Pasadena, California, which Mr. Albrecht opposed.

In March 2018, Ms. Albrecht relocated a second time with the parties’ minor children from Pasadena, California to Sierra Madre, California, but did not notify Mr. Albrecht until January 2, 2019.

On April 27, 2018, the family court entered its final divorce decree, recommended by Marital Master Bruce DalPra, and approved by former judge Julie Introcaso.

On May 30, 2019, Marital Master Bruce F. DalPra recommended that Mr. Albrecht's motions to enforce the court's *Parenting Plan* be denied, and former judge Julie Introcaso approved this recommendation.

On June 30, 2019, Marital Master Bruce F. Dalpra recommended that Mr. Albrecht's motion for reconsideration be denied, which was "approved and so ordered" by Judge Mark S. Derby⁷.

Mr. Albrecht then sought appellate review of the New Hampshire trial court orders recommended by Marital Master Bruce F. DalPra, and approved by former judge Julie Introcaso (May 30, 2019) and Judge Mark S. Derby (June 30, 2019).

However, the New Hampshire Supreme Court declined to review these orders, expressing "no opinion on the quality or correctness of either the decision below or the arguments to be advanced by counsel on appeal." *See State v. Cooper*, 127 N.H. 119, 125 (1985).

Under federal due process the question of whether an appeal provided in the State system is one of right or of discretion is also a federal question. *See State v. Cooper*, 127 N.H. 119, 129 (1985) (quoting *Evitts v. Lucey*, 469 US 387, 393, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985)).

Mr. Albrecht then sought that this Honorable Court review whether, and under what circumstances, New Hampshire's discretionary appellate process was unconstitutional, arising out of his failed efforts to obtain any state-level appellate review of former judge Introcaso's orders. See docket 19-8108 of this Court.

⁷ During the first DV hearing that gave rise to this case, Judge Derby later stated, "I'll tell you the truth. I have no knowledge of the divorce case." *See* transcript of December 9, 2019 hearing at lines 15-16, despite Judge Derby having previously approved numerous orders in that case. *See*

On Sunday, November 3, 2019, Mr. Albrecht attempted to attend services at Collinsville Bible Church, located in Dracut, Massachusetts. Ms. Albrecht, and the parties' children G.A., S.A., and C.A. were also at the church with Ms. Albrecht. There was no contact of any kind between the parties that day.

On November 12, 2019, Ms. Albrecht, while residing in California, had her New Hampshire attorney file the present domestic violence action against Mr. Albrecht.

On December 30, 2019, New Hampshire trial court judge Mark S. Derby issued the initial order of protection, based "solely on the events of November 3, 2019" because Mr. Albrecht "did not have scheduled parenting time" pursuant to the May 30, 2019 order⁸ of former judge Julie Introcaso.

On January 27, 2020, trial court Judge Mark S. Derby entered an order on post-trial motions in this case. (App. 17-19)

On June 19, 2020, the New Hampshire Supreme Court affirmed trial court Judge Mark S. Derby's orders. (App. 13-16)

On October 22, 2020, information about the conflict of interest between former judge Julie Introcaso and GAL Kathleen Sternenberg first became public.

On Friday, December 18, 2020, Ms. Albrecht filed a motion to extend the protective order by one year. (App. 11-12)

On Monday, December 21, 2020, the trial court granted Ms. Albrecht's motion, on an *ex parte* basis, based on unspecified "evidence and testimony presented to [the trial court] in this domestic violence matter and in the divorce matter." (App. 9-12).

⁸ Mr. Albrecht attempted, unsuccessfully, to obtain appellate review, any appellate review, of former judge Introcaso's May 30, 2019 order. See docket 19-8108 of this Court.

On January 18, 2021, the deposition of Judge Mark S. Derby was taken. (App. 261-309)

On February 8, 2021, the deposition of former judge Julie Introcaso was taken. (App. 193-260)

On December 16, 2021, the New Hampshire Supreme Court determined that Marital Master Bruce F. DalPra was disqualified based on comments⁹ that Master DalPra made at trial, yet “express[ed] no opinion as to the merits of the underlying motion to extend the protective order,” that Petitioner requested it review, despite that Petitioner raised numerous state and federal constitutional concerns in fully developed argument before the New Hampshire Supreme Court.

Further, the New Hampshire Supreme Court also ordered that the protective order would remain in place, even though it would have expired on December 29, 2021, had Petitioner simply never appealed it to the New Hampshire Supreme Court in the first place.

Consequently, the Petitioner is now subject to a “one-year extension” [sic] of the original order, from 12/30/2020 through 2/25/2023 (2 years, 1 month, 26 days).¹⁰

⁹ Concerning Petitioner’s testimony at trial, New Hampshire Marital Master Bruce F. DalPra stated, “who gives a f**k” and also called the parties’ children “a bunch of morons.”

¹⁰ See App. 151-180, and in particular, App. 169.

REASONS FOR GRANTING THE PETITION

I. Trial courts nationwide routinely issue (or deny) domestic violence orders of protection, yet there is no controlling nationwide Supreme Court opinion on whether objective standards are required under the Due Process and Equal Protection clauses.

Between 960,000 and 3,000,000 alleged incidents of domestic violence are reported each year, while many other alleged incidents go unreported.¹¹ This Court, broadly speaking, has taken up the subject of “domestic violence” in the past.

See, e.g. *Voisine v. US*, 136 S. Ct. 2272 (2016), *Giles v. California*, 554 U.S. 353 (2008), *Davis v. Washington*, 547 U.S. 813 (2006).

However, it has remained silent concerning whether the federal Due Process Clause and Equal Protection Clause require that there be objective standards for issuing or denying orders of protection.

II. The issues are squarely presented in this case.

New Hampshire has issued, and extended, domestic violence protective orders resulting from peaceful church attendance, in a different state, and without adequate explanation, yet simultaneously denied protective orders where testimony of graphic violence and sexual abuse was heard at trial, and where the defendant subsequently attempted to murder the plaintiff, before dying himself, by suicide.

11 U.S. Department of Justice, *Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends*, March 1998, available at <https://bjs.ojp.gov/content/pub/pdf/vi.pdf>

III. This case, and related cases, have received extensive media coverage, both state, and nationwide.

This case, and related cases, have received extensive media coverage, both state, and nationwide in the New Hampshire Union Leader,¹² Associated Press,¹³ Daily Beast,¹⁴ WCVB5 Boston,¹⁵ NBC10 Boston,¹⁶ and internationally, in the Epoch Times.¹⁷

This coverage, *supra*, is representative, but by no means constitutes an exhaustive list. To obtain additional relevant articles, the reader is invited to “google it” – searches for the names of relevant (former) New Hampshire judicial officers, or the names of known victims – return numerous results, from reputable media sources.

Consequently, this case, and the associated related cases, are of significant public interest.

12 See, e.g. Hayward, Mark. *Foul-mouth family court master ordered off all cases*. New Hampshire Union Leader. December 17, 2021. Available at https://www.unionleader.com/news/courts/foul-mouth-family-court-master-ordered-off-all-cases/article_702de15b-8680-5e0a-bc06-aabb6c8f3f8c.html

13 See, e.g., *Judge who allegedly altered court paperwork resigns*. Associated Press. February 17, 2021, available at <https://apnews.com/article/new-hampshire-85394b3edfbc7c71e44a2f5efc981960>

14 Quinn, Allison. *Judicial Officer Sidelined From Divorce Case After Calling Kids a ‘Bunch of Morons.’* The Daily Beast. December 17, 2021. Available at <https://www.thedailybeast.com/new-hampshire-judicial-officer-sidelined-from-divorce-case-after-calling-kids-a-bunch-of-morons>

15 WCVB5 Boston. *New questions about denied protective order as woman fights to survive after failed murder-suicide*. November 17, 2021. Available at <https://www.wcvb.com/article/questions-about-denied-protective-order-after-woman-shot/38282248>

16 NBC10 Boston. *Review Finds Denial of Restraining Order to Woman Shot by Ex-Boyfriend ‘Reasonable.’* November 30, 2021. Available at <https://www.nbc10.com/news/local/review-finds-decision-to-deny-restraining-order-to-woman-shot-by-ex-boyfriend-was-reasonable/2578544/>

17 Giordano, Alice. *New Hampshire Family Courts Likened to the Mafia*. The Epoch Times. February 25, 2022. Available at https://www.theepochtimes.com/new-hampshire-family-courts-likened-to-the-mafia_4302920.html

IV. The decisions below are wrong, and deeply disturbing.

First, the original order of protection is unconstitutional under the First and Fourteenth Amendments. It is designed, first and foremost, to protect an Independent Fundamentalist Baptist (IFB) church located in Massachusetts, not the Respondent. It prohibits Plaintiff from coming within 2,000 feet of the IFB church, even when Respondent is in another state. It unconstitutionally infringes upon Plaintiffs's First Amendment rights to leaflet on public property near the IFB church when Respondent is not present (See, e.g. *McCullen v. Coakley*, 134 S. Ct. 2518 (2014), finding that "buffer zones" violate the First Amendment), or to loiter for innocent purposes on public property when Respondent is not present. (indeed, when Respondent is physically in an entirely different state). See, e.g., *City of Chicago v. Morales*, 527 U.S. 41 (1999).

The New Hampshire Supreme Court was asked to articulate what is New Hampshire's "compelling state interest" in regulating Plaintiff's constitutionally protected activities in Massachusetts for any so-called purposes of offering "protection" to a resident of Michigan, who was a resident of California when she filed this action. Further, how any such "compelling state interest" is "narrowly tailored" to use the "least restrictive means" possible.

It declined to do so, and instead "express[ed] no opinion as to the merits of the underlying motion to extend the protective order," that Petitioner requested that it review.

This is not an abstract concern. Both parties in this case are no stranger to First Amendment expressive activity. Respondent has previously obtained a \$172,000 settlement agreement in a federal First Amendment case brought under 42 U.S.C.

§§ 1983 and 1988 and 28 U.S.C. §§ 2201 et seq. See *Albrecht v. Metropolitan Pier and Exposition Auth.*, 338 F. Supp. 2D 914 (2004).

Plaintiff has, on numerous occasions (though less often than he might like) peacefully participated, without incident, in protected First Amendment expressive activity outside Boston Planned Parenthood alongside Ms. Eleanor McCullen, the plaintiff in *McCullen v. Coakley*, 134 S. Ct. 2518 (2014). Indeed, Plaintiff even asked the trial court to modify its order to allow protected First Amendment expressive activity by Plaintiff on public property near the IFB church, to which Respondent objected. Respondent, in her objection, stated that “Collinsville Bible Church should be afforded an opportunity to also weigh in on this motion given their interests will be affected” further laying bare that Respondent’s so-called “Domestic Violence” action is nothing less than an illegal “tort of emotional distress” concerning protected First Amendment activity by Plaintiff. See *Snyder v. Phelps*, 562 U.S. 443 (2011), which prohibits such torts.

Further, the lower court orders have been unconstitutionally vague. The Plaintiff has never even been informed, with any specificity, exactly what actions he allegedly took that violated the relevant New Hampshire Domestic Violence Statute, and why.

Indeed, the New Hampshire Supreme Court also affirmed the lower court ruling in this case that “Plaintiffs¹⁸ in their domestic violence petitions are not required to identify by name and citation which crimes [*emphasis added*] in *RSA 173-B:1* the defendant has committed. The defendant and the court discern it from the facts that the plaintiff pleads, and that is what happened here.”

¹⁸ In the cases below, Petitioner Dana Albrecht was the Defendant, and Respondent Katherine Albrecht was the Plaintiff.

However, judicial decisions may not “contain only an abstract conclusion of law” when a party is “shooting in the dark” and “trying to guess at what may be an issue.” See *Longshoremen v. Philadelphia Marine Trade Assn.*, 389 U.S. 64 (1967). A court must frame its orders so that those who must obey them will know what the court intends to require and what it means to forbid. See *Id.*

Further, neither the New Hampshire Supreme Court’s orders, nor New Hampshire’s “Domestic Violence” statutory framework itself, can be unconstitutionally vague, or either risks being struck down by this Court. See, e.g., *Papachristou v. Jacksonville*, 405 U.S. 156 (1972) (striking down a vagrancy ordinance); *Kolender v. Lawson*, 461 U.S. 352 (1983) (finding excessive discretion to the police to be unconstitutionally vague); *FCC v. Fox Television Stations, Inc.* 567 U.S. 239 (2012) (invalidating fines for obscene language on vagueness grounds); *Johnson v. United States*, 576 U.S. 591 (2015) (finding that individuals are unconstitutionally deprived of due process when they are convicted under laws so vague that they fail to give ordinary people fair notice of the conduct they punish); and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018) (holding that the residual clause in the Immigration and Nationality Act was unconstitutionally vague).

V. Action by this Court is necessary to restore public confidence in the integrity of the Judiciary.

Finally, this case has been hopelessly tainted by multiple instances of judicial misconduct. Two different former trial court judges (Paul S. Moore and Julie Introcaso) involved in this case were subsequently charged with felonies, on separate occasions, and one (Ms. Introcaso) for reasons related to this case, concerning her improper appointments of her close friend Kathleen Sternenberg as GAL. Both judges have subsequently been disbarred.

A third judicial officer, Marital Master Bruce F. DalPra was also disqualified by the New Hampshire Supreme Court for comments he made about this case (“who gives a f**k”) and calling the parties’ children “a bunch of morons.” Further, Master DalPra was also aware of the conflict of interest issues surrounding former judge Introcaso, since 2014, but failed to disclose them.

Insofar as any judicial officers involved in this case ought to be disqualified, or recused, or their orders vacated, the lower courts have also applied the wrong legal standard.

The New Hampshire courts “did not ask [all] the question[s] [United States Supreme Court] precedents require: whether, considering all the circumstances alleged, the risk [emphasis added] of bias [is] too high to be constitutionally tolerable.” See *Rippo v. Baker*, 137 S. Ct. 905, 907 (2017), vacating the Nevada Supreme Court’s judgment because it applied the wrong legal standard.

Indeed, “under [United States Supreme Court] precedents, the Due Process Clause may sometimes demand recusal even when a judge “ha[s] no actual bias.” *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 825, 106 S.Ct. 1580, 89 L.Ed.2d 823 (1986). Recusal is required when, objectively speaking, “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975); see *Williams v. Pennsylvania*, 579 U.S. ___, ___, 136 S.Ct. 1899, 1905, 195 L.Ed.2d 132 (2016) (“The Court asks not whether a judge harbors an actual, subjective bias, but instead whether, as an objective matter, the average judge [emphasis added] in his position is likely to be neutral, or whether there is an unconstitutional potential [emphasis added] for bias” (internal quotation marks omitted)). See *Rippo*.

Further, the Due Process Clause “may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way, ‘justice must satisfy the appearance of justice.’” *In re Murchison*., 349 U.S. 133, 136 (1955).

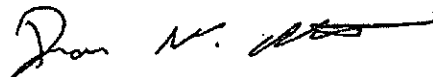
Concerning this case, however, does the “justice” of the New Hampshire courts “satisfy the appearance of justice?”

Or, in the alternative, is the “justice” of the New Hampshire courts in this case founded in undisclosed conflicts of interest (since 2014!) involving this case, cover-ups, and the shockingly candid statement of the trial court judicial officer most involved in this case, concerning this case, of “who gives a f**k?”

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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